

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

CITY OF FAIRBORN, OHIO, *et al.*,

Plaintiffs,

Case No. 3:22-cv-102

vs.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,

District Judge Michael J. Newman  
Magistrate Judge Peter B. Silvain, Jr.

Defendants.

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**ORDER ADDRESSING ORAL ARGUMENT SCHEDULED FOR OCTOBER 5, 2022**

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This civil case is before the Court in anticipation of oral argument to be held on October 5, 2022 at 10:00 a.m. in Courtroom 4. The Court sets forth the following structure for oral arguments:

1. Dovetail Energy, LLC, and Reenergy Inc. will argue their motion to dismiss on the diligent prosecution bar.
2. The City of Fairborn and Bath Township ("Plaintiffs") will respond.
3. The Ohio EPA will argue its motion to dismiss on the basis that it cannot be sued as a regulator.
4. Plaintiffs will respond.
5. The U.S. EPA will argue its motion to dismiss on the basis that it has sovereign immunity and was not given requisite notice.
6. Plaintiffs will respond.
7. Plaintiffs will argue in support of granting the motion to stay.
8. Defendants will respond.

**IT IS SO ORDERED.**

Date: September 28, 2022

/s Michael J. Newman  
Hon. Michael J. Newman

United States District Judge